

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEVIN KIHNKE, *et al.*,

Plaintiffs,

v.

LM INSURANCE CORPORATION, *et al.*,

Defendants.

CASE NO. C21-0011-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on Defendants LM Insurance Corporation and Liberty Insurance Corporation's (collectively "Liberty Mutual") motion to dismiss or alternatively to transfer venue (Dkt. No. 21). Liberty Mutual argues that Plaintiffs' First Amended Complaint ("FAC")¹ (Dkt. No. 18) fails to establish the Court's diversity jurisdiction. (*See* Dkt. No. 21 at 13–14.) Specifically at issue is the FAC's failure to affirmatively plead Mr. Kihnke's citizenship. (*Id.*)

¹ Plaintiffs filed a First Amended Complaint (Dkt. No. 18) on February 22, 2021 and then refiled the First Amended Complaint (Dkt. No. 19) on February 23, 2021. Plaintiffs represent to the Court that the documents are identical. (Dkt. No. 24 at 13 n.5.) For purposes of this order all references to Plaintiffs' complaint are to the First Amended Complaint filed on February 22, 2021 (Dkt. No. 18), which the Court currently views to be the operative complaint for purposes of Liberty Mutual's motion.

1 Liberty Mutual is correct. Plaintiffs must affirmatively plead each party's citizenship to
2 support the Court's jurisdiction in this alleged diversity action. *See* W.D. Wash. Local Civ. R.
3 8(a); *see also Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). However,
4 Plaintiffs suggest this deficiency can be easily cured through a "one-word amendment, if
5 necessary" and seek leave to do so. (Dkt. No. 24 at 18–19.)

6 Plaintiffs' request is GRANTED. They may amend the complaint *solely* for purposes of
7 establishing diversity jurisdiction. *See* 28 U.S.C. § 1653. The amendment is due April 12, 2021.
8 If Plaintiffs choose to amend, Liberty Mutual need not renew its motion to dismiss or transfer
9 venue (Dkt. No. 21). The Court will, instead, consider the motion in light of a second amended
10 complaint.

11 The Clerk is DIRECTED to renote Liberty Mutual's motion to dismiss or alternatively
12 transfer venue (Dkt. No. 21) for consideration on April 12, 2021.

13 DATED this 7th day of April 2021.

14 William M. McCool
15 Clerk of Court

16 s/Paula McNabb
17 Deputy Clerk
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